

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200805809	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/18/2008 8:00 PM	Location of Incident: Parking lot near Beach 40th Street and Beach Channel Drive.	Precinct: 101	18 Mo. SOL 10/18/2009	EO SOL 10/18/2009	
Date/Time CV Reported Wed, 04/23/2008 2:22 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/23/2008 2:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Joseph Digennaro	04419	906107	101 PCT
2. POM Timothy Hinteman	93173	931733	101 PCT
3. POM Douglas Rome	31085	937428	101 PCT
4. POM Jason Ragoo	01854	939268	101 PCT
5. POM Jolan Lewis	07344	933929	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Damian Merriweather	26703	941079	101 PCT
2. POM Fitzroy Woodhouse	06094	911190	101 PCT
3. POM Robert Simon	26201	934183	101 PCT
4. SGT Frank Dichristina	03634	915605	101 PCT
5. POM Vincent Caputo	26920	933673	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Joseph Digennaro	Abuse: At 40-20 Beach Channel Drive, Sgt. Joseph Digennaro stopped § 87(2)(b)	
B.POM Douglas Rome	Force: At 40-20 Beach Channel Drive, PO Douglas Rome used a chokehold against § 87(2)(b)	
C.SGT Joseph Digennaro	Force: At 40-20 Beach Channel Drive, Sgt. Joseph Digennaro used physical force against § 87(2)(b)	
D.POM Timothy Hinteman	Force: At 40-20 Beach Channel Drive, PO Timothy Hinteman used physical force against § 87(2)(b)	
E.POM Douglas Rome	Force: At 40-20 Beach Channel Drive, PO Douglas Rome used physical force against § 87(2)(b)	
F.POM Jason Ragoo	Force: At 40-20 Beach Channel Drive, PO Jason Ragoo used physical force against § 87(2)(b)	
G.POM Jason Ragoo	Force: At 40-20 Beach Channel Drive, PO Jason Ragoo used pepper spray against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Jolan Lewis	Abuse: At § 87(2)(b) PO Jolan Lewis strip-searched § 87(2)(b)	
I.POM Jolan Lewis	Abuse: At § 87(2)(b) PO Jolan Lewis performed a cavity search on § 87(2)(b)	

Synopsis

On April 18, 2008, at approximately 8:00 PM, § 87(2)(b) was in a parking lot of a public housing building near Beach 42nd Street and Beach Channel Drive in Queens. § 87(2)(b) was with two of his acquaintances, § 87(2)(b) and § 87(2)(b). § 87(2)(b) had double-parked his vehicle, which was a white BMW, in the parking lot. An unmarked police drove into the parking lot. There were four officers inside the vehicle, identified through the investigation as PO Douglas Rome, Sgt. Jason Digennaro, PO Jason Ragoo and PO Timothy Hinteman of the 101st Precinct. Sgt. Digennaro asked who owned the white BMW and § 87(2)(b) responded that it was his vehicle. Sgt. Digennaro requested § 87(2)(b)'s name, to which § 87(2)(b) replied that his name was "§ 87(2)(b)" before handing Sgt. Digennaro his ID. Sgt. Digennaro exited the police vehicle, followed by PO Ragoo, PO Hinteman and PO Rome. Sgt. Digennaro then twice instructed § 87(2)(b) to place his hands behind his back (**Allegation A**). The officers surrounded § 87(2)(b) and § 87(2)(b) alleged that PO Rome then placed his hand around his neck, thus restricting his breathing (**Allegation B**). Sgt. Digennaro, PO Hinteman, PO Rome and PO Ragoo used physical force to bring § 87(2)(b) to the ground, where they allegedly punched and kicked him repeatedly (**Allegations C, D, E and F**). § 87(2)(b) asserted that he never resisted, fought back or struck any of the officers. During the struggle, § 87(2)(b) was pepper sprayed by PO Ragoo (**Allegation G**). § 87(2)(b) was eventually handcuffed as additional officers responded to the scene in response to a call for assistance. § 87(2)(b) claimed that he lost consciousness while being placed in a vehicle and awoke at § 87(2)(b).

Two uniformed officers, identified through the investigation as PO Vincent Caputo and PO Jolan Lewis of the 101st Precinct, were with § 87(2)(b) at § 87(2)(b). § 87(2)(b) alleged that PO Lewis removed his clothing and examined each article, including his wallet (**Allegation I**). § 87(2)(b) alleged that PO Lewis then put on a pair of plastic gloves, stood to § 87(2)(b)'s right side and instructed him to turn on his side such that his buttocks were displayed. PO Lewis then inserted what felt like two fingers into § 87(2)(b)'s rectum (**Allegation H**). The examination lasted about one to two minutes. § 87(2)(b) was eventually transported to the 101st Precinct and later transported to Central Booking, where he was charged with § 87(2)(b).

§ 87(2)(g)

Internal Affairs conducted a concurrent investigation regarding the alleged cavity search as part of Internal Affairs log number A08-20918.

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a black male who is 5'11" tall, and weighs 225 pounds and has brown hair and brown eyes. A complaint was filed with Internal Affairs on § 87(2)(b)'s behalf on April 18, 2008, at 11:49 PM, generating log number 08-1205 (encl. 6a – 6f). § 87(2)(b) was interviewed by Internal Affairs on April 19, 2008, at 2:35 AM (encl. 7a – 7h). § 87(2)(b) filed a complaint with the CCRB by phone on April 23, 2008 (encl. 8a – 8c). § 87(2)(b) provided a telephone statement to the CCRB on June 24, 2008 (encl. 9). § 87(2)(b) was interviewed at the CCRB on May 1, 2008 (encl. 10a – 10f). § 87(2)(g)

On April 18, 2008, at approximately 8:00 PM, § 87(2)(b) was in a parking lot of a public housing building near Beach 42nd Street and Beach Channel Drive in Queens. § 87(2)(b) is a member of a motorcycle appreciation group called the § 87(2)(b). § 87(2)(b) and about twenty members of this group, including his friend, § 87(2)(b) had been in the parking lot for several hours comparing their vehicle logos. The parking lot was quite dark, though there were interspersed street lights. The group was congregated towards the very rear of the parking lot. § 87(2)(b) was driving a white BMW, license plate number § 87(2)(b) which was registered to his cousin. § 87(2)(b) had double parked his vehicle in the parking lot. § 87(2)(b) was standing about ten feet away from his vehicle.

§ 87(2)(b)'s friend, § 87(2)(b) drove into the parking lot. § 87(2)(b) was driving a blue Dodge Charger. A beige, champagne or light colored unmarked police vehicle drove behind § 87(2)(b). There were four officers inside the vehicle, identified through the investigation as PO Douglas Rome, Sgt. Jason Digennaro, PO Jason Ragoo and PO Timothy Hinteman of the 101st Precinct. § 87(2)(b) parked and exited his vehicle. From within the police vehicle, Sgt. Digennaro asked § 87(2)(b) who owned the white BMW. § 87(2)(b) overheard and replied that he owned the vehicle. Sgt. Digennaro instructed him to move the vehicle. § 87(2)(b) said that would not be a problem and walked towards his vehicle.

As § 87(2)(b) walked towards his vehicle, the police vehicle rolled forward behind him. Sgt. Digennaro twice asked § 87(2)(b) for his name and § 87(2)(b) twice replied that his name was "§ 87(2)(b)". § 87(2)(b) told Sgt. Digennaro that he did not want any problems and voluntarily provided his license. Sgt. Digennaro examined § 87(2)(b)'s license, noted that his name was § 87(2)(b) and asked why § 87(2)(b) had lied to him. Sgt. Digennaro asked § 87(2)(b) where he lived, and § 87(2)(b) replied that this information was on his license. Sgt. Digennaro said he was going to give him a summons for double parking. § 87(2)(b) protested.

Sgt. Digennaro exited the police vehicle, followed by PO Ragoo, PO Hinteman and PO Rome. As the officers exited their vehicle, § 87(2)(b) observed that their shields were obscured under their outermost garments and the numbers on their shields were covered with black tape. § 87(2)(b) asked the officers why he could not see their shields. Sgt. Digennaro then twice instructed him to place his hands behind his back (**Allegation A**). During his interview with Internal Affairs (encl. 7a – 7h), § 87(2)(b) contrastingly stated that he was instructed to place his hands on the police vehicle. § 87(2)(b) twice refused because he needed to know why he was being arrested. § 87(2)(b)'s tone of voice was conversational.

The officers surrounded § 87(2)(b) and § 87(2)(b) alleged that PO Rome then placed his hand around his neck, thus restricting his breathing (**Allegation B**). § 87(2)(b) described PO Rome as a white male who had been seated in the back seat of the police vehicle. § 87(2)(b) could not further describe PO Rome in any detail. Sgt. Digennaro and PO Hinteman grabbed § 87(2)(b)'s arms (**Allegation C** and **Allegation D**). § 87(2)(b) held his hands stiffly against his side and his body rigid and continued to state that he would not place his hands behind his back. § 87(2)(b) felt PO Ragoo kick at his legs in an attempt to bring him to the ground (**Allegation E**).

The officers called for additional units. As additional officers began to respond to the scene, Sgt. Digennaro, PO Hinteman, PO Ragoo and PO Rome brought § 87(2)(b) to the ground. § 87(2)(b) alleged that they repeatedly punched him on his face, kidneys, privates and sides with their closed fists at this time (**Allegation C, D, E and F**). During his interview with Internal Affairs (encl. 7a – 7h), § 87(2)(b) alleged that he was thrown against a vehicle and punched and kicked by all four officers first before being thrown to the ground. During his interview with the CCRB (encl. 10a – 10f), § 87(2)(b) did not mention being thrown against a vehicle. § 87(2)(b) could not estimate how many times he was punched or for how long he was struck. At some point, § 87(2)(b) was pepper-sprayed (**Allegation G**). The officers continued to tell § 87(2)(b) to place his hands behind his back and shouted other commands § 87(2)(b) could not recall. § 87(2)(b) asserted that he never resisted, never fought back, and never struck any of the officers. § 87(2)(b) later learned that § 87(2)(b) and § 87(2)(b) had recorded video footage of the struggle.

At some point, due to the combined effect of the officers' use of physical force, § 87(2)(b) lost consciousness. § 87(2)(b) vaguely recalled being placed in a vehicle, but could not say whether this vehicle was marked or unmarked. § 87(2)(b) fully lost consciousness at this time and awoke in § 87(2)(b). Two uniformed officers, identified through the investigation as PO Vincent Caputo and PO Jolan Lewis of the 101st Precinct, were standing near him. § 87(2)(b) described these officers as a white male who was about 5'9" to 5'10" tall, heavy set and had black hair and a black male who was about 5'8" tall and of slim build.

A nurse flushed out § 87(2)(b)'s eyes and PO Lewis removed § 87(2)(b)'s clothing and examined each article, including § 87(2)(b)'s wallet (**Allegation I**). During his telephone statement to the CCRB (encl. 9), § 87(2)(b) contrastingly stated that both PO Lewis and PO Caputo removed his clothing. § 87(2)(b) assumed that PO Lewis was looking for narcotics. No contraband was discovered as a result of the search. § 87(2)(b) alleged that PO Lewis then put on a pair of plastic gloves, stood to § 87(2)(b)'s right side and instructed him to turn on his side such that his buttocks were displayed. § 87(2)(b) asked PO Lewis what he was doing and PO Lewis replied that it was 'police procedure.' PO Lewis then inserted what felt like two fingers into § 87(2)(b)'s rectum (**Allegation H**). The examination lasted about one to two minutes. § 87(2)(b) did not mention being strip-searched or cavity-searched during his interview with Internal Affairs (encl. 7a – 7h).

After the examination, § 87(2)(b) remained at § 87(2)(b) and received medical treatment for his swollen eye, lacerations to each side of both wrists, lacerations on his head and face, and bruising along his body. § 87(2)(b)'s left eye was still red at the time of his interview with the CCRB, and a photograph was taken of this injury, in addition to a photograph which was taken of a laceration around his left wrist (encl. 10d – 10e). At the time of his interview with Internal Affairs (encl. 7a – 7h), § 87(2)(b) stated that he received this injury when an officer kicked him in the face, but did not provide an explanation for his injury during his interview with the CCRB (encl. 10a – 10f). § 87(2)(b) was arraigned on § 87(2)(b), where he was charged with § 87(2)(b).

At the time of his interview with the CCRB, § 87(2)(b) refused to sign an authorization for release of medical records and refused to provide the video footage, photographs, or witness information he had which pertained to the incident. The investigation contacted § 87(2)(b) on five occasions between May 7, 2008, and June 17, 2008, to request that he consider signing an authorization form. Each time, § 87(2)(b) stated that he would discuss the matter with his attorney and return the investigator's call. § 87(2)(b) failed to do so, and has not contacted the investigator regarding this matter to date. A final letter was sent to § 87(2)(b) regarding the importance of obtaining his medical records on June 17, 2008.

Results of Investigation

Additional Civilian Statements:

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a black male who is 5'7" tall and baldheaded. § 87(2)(b) provided a brief telephone statement on July 8, 2008 (encl. 12). § 87(2)(b) was interviewed at the CCRB on July 23, 2008 (encl. 13a – 13e). § 87(2)(g)

On April 18, 2008, at approximately 7:00 PM, § 87(2)(b) drove from his place of employment to a parking lot located near Beach Channel Drive and Beach 40th Street in Queens to meet his cousin, § 87(2)(b) and his friend, § 87(2)(b). § 87(2)(b) § 87(2)(g) stated that the only individuals present were himself, § 87(2)(b) and § 87(2)(b). When § 87(2)(b) drove his blue Dodge Charger into the parking lot, a black four-door Impala entered the parking lot behind him. § 87(2)(b) drove to the rear of the parking lot and legally parked his vehicle. § 87(2)(b) was standing

next to his own vehicle, which was a burgundy Chevrolet Tahoe, with § 87(2)(b) § 87(2)(b) and § 87(2)(b) were looking at a sticker on a window on § 87(2)(b)'s vehicle. § 87(2)(b)'s vehicle, which was a white BMW, was double parked near § 87(2)(b)'s vehicle.

§ 87(2)(b) exited his vehicle. The unmarked vehicle was idling in the parking lot behind him. § 87(2)(b) asked the officers if he was in their way or if he wanted to move. They indicated that he was not in their way. § 87(2)(b) walked over to § 87(2)(b) and § 87(2)(b) with whom he spoke for about five minutes. During that time, the police vehicle continued to idle in the parking lot behind and to the left of the white BMW. After about five minutes, § 87(2)(b) told § 87(2)(b) and § 87(2)(b) that he had to leave to pick up his son.

§ 87(2)(b) walked towards his vehicle with his keys in his hand. The front passenger of the unmarked vehicle, identified through the investigation as Sgt. Jason Digennaro of the 101st Precinct, told § 87(2)(b) to 'come here.' Prior to doing so, none of the officers had made any inquiries as to the ownership of the white BMW. § 87(2)(b) complied and Sgt. Digennaro asked for his name and § 87(2)(b) replied that his name was § 87(2)(b). Sgt. Digennaro accused him of lying, so § 87(2)(b) voluntarily provided his ID. § 87(2)(b) then asked the officers for their names and shields numbers. Sgt. Digennaro did not provide this information. Instead, the driver of the vehicle, identified through the investigation as then PO Timothy Hinteman of the 101st Precinct, exited and approached § 87(2)(b).

After PO Hinteman exited the vehicle, Sgt. Digennaro and the remaining occupants of the vehicle, identified through the investigation as PO Jason Ragoo and then PO Douglas Rome of the 101st Precinct, exited the vehicle as well. § 87(2)(b) never pushed the front passenger's side door closed. PO Rome told § 87(2)(b) to put his hands behind his back and called him a "smart-ass." § 87(2)(b) repeatedly asked why he was being arrested, stated that he had done nothing wrong, and told the officers to issue him a summons if he was illegally parked. Sgt. Digennaro and PO Rome grasped § 87(2)(b)'s arms and tried to pull them behind his back. § 87(2)(b) explained that § 87(2)(b) has unspecified physiological problems with his arms so it was difficult for him to place his hands behind his back when instructed.

All four officers attempted to force § 87(2)(b) to the ground by pulling on his arms and kicking his legs. § 87(2)(b)'s stature prevented them from doing so. He continued to state that he had done nothing wrong. Aside from standing, § 87(2)(b) was not actively doing anything to physical prevent the officers from bringing him to the ground. § 87(2)(b) never pushed, assaulted or made any physically aggressive motions towards any of the officers. Eventually, the officers were able to pull § 87(2)(b) to the ground. None of the officers went to the ground with him. The officers never pushed him again the police vehicle.

All four officers repeatedly kicked § 87(2)(b) in his groin and in his face. § 87(2)(b) was curled on the ground on his side with his hands behind his back. The officers also punched § 87(2)(b) with closed fists throughout his body. One of the officers placed his hand around § 87(2)(b)'s neck about the time that he was pepper sprayed. § 87(2)(b) did not know which officer did this. During the struggle, which lasted about twenty minutes, about eight or ten people came from the surrounding area and watched the incident. They were yelling and screaming at the officers. § 87(2)(b) began recording the incident with his video recorder. § 87(2)(b) later provided his only copy of this footage to § 87(2)(b) § 87(2)(b)'s attorney. Eventually the officers were able to handcuff § 87(2)(b) but § 87(2)(b) did not know by whom or how. He explained that it was difficult to get close enough to see because it was dark and each time they stepped closer to the officers they were instructed to step back. One of the officers drew his firearm and pointed it at § 87(2)(b) at one point while instructing him to get back. § 87(2)(b) did not know which officer did this.

About five or six police vehicles eventually responded to the scene. A white male officer wearing a white uniformed shirt exited one of these vehicles, walked over to § 87(2)(b) and hit him in the face. § 87(2)(b) was eventually placed in a marked police vehicle. § 87(2)(b) picked up § 87(2)(b)'s son and drove to the 101st Precinct, where he learned that § 87(2)(b) was at § 87(2)(b) § 87(2)(b) was at the hospital for about two hours. When he exited the hospital, § 87(2)(b) saw that § 87(2)(b) had abrasions on his face, his right eye was closed and he could barely walk. § 87(2)(b) was escorted into a police vehicle and taken to the 101st Precinct.

§ 87(2)(b)

§ 87(2)(b) is a black male who is § 87(2)(b) years old. § 87(2)(b) provided a partial telephone statement on May 9, 2008 (encl. 14).

On April 18, 2008, at approximately 8:15 PM, § 87(2)(b) was in a parking lot located at Beach 42nd Street and Beach Channel Drive in Queens. The parking lot was located next to a park, and the lighting conditions were fair. § 87(2)(b) was with his brother, whose name he did not provide, and his friend, § 87(2)(b). They were cleaning the brakes of their vehicles and comparing logos for their motorcycle enthusiasts group, the § 87(2)(b). § 87(2)(b)'s brother walked out of the parking lot to a nearby park and did not witness the subsequent incident. One of their friends, § 87(2)(b) pulled into the parking lot at this time. § 87(2)(b) drives a 2004 or 2005 Dodge Charger. Behind this vehicle was a black or gray Chevy Impala with tinted windows.

§ 87(2)(b) told § 87(2)(b) that he was going to leave and began to walk towards his vehicle. The unmarked vehicle quickly drove up to § 87(2)(b). § 87(2)(b) was standing about ten feet away from § 87(2)(b). The officer sitting in the front passenger's seat, identified through investigation as Sgt. Jason Digennaro of the 101st Precinct, asked § 87(2)(b) for his name. § 87(2)(b) replied that his name was '§ 87(2)(b)' and gave Sgt. Digennaro his driver's license. § 87(2)(b) was standing near his vehicle. Sgt. Digennaro asked who owned this vehicle and § 87(2)(b) replied that he had borrowed it from a relative. Sgt. Digennaro said something about § 87(2)(b) being double parked. § 87(2)(b) asked if he was going to receive a parking ticket.

Sgt. Digennaro then instructed him to place his hands on his vehicle. Sgt. Digennaro and two other officers, identified through the investigation as PO Jason Ragoo and PO Douglas Rome of the 101st Precinct, then exited the police vehicle. The driver of the vehicle, identified through the investigation as then PO Timothy Hinteman of the 101st Precinct, remained inside the vehicle. Sgt. Digennaro stood in front of § 87(2)(b) while PO Ragoo and PO Rome held his arms. § 87(2)(b) held his hands on his side and repeatedly asked what he had done wrong. The officers tried to push § 87(2)(b) to the ground, but § 87(2)(b) would not fall down. PO Hinteman exited the vehicle at this time. § 87(2)(b) never struck any of the officers. § 87(2)(b) was eventually brought to the ground. Once on the ground, PO Hinteman knelt § 87(2)(b) in the face more than five times. Sgt. Digennaro twisted § 87(2)(b)'s left leg in what appeared to be an attempt to turn § 87(2)(b) onto his stomach while PO Rome and PO Ragoo stood over § 87(2)(b) and held him down. Before the investigator could obtain additional details regarding the incident, § 87(2)(b) stated that he no longer had time to speak with the investigator.

The investigation made the following attempts to obtain a full and formal statement from § 87(2)(b). Between May 9, 2008, and July 8, 2008, five calls were placed to § 87(2)(b)'s telephone number. Letters were mailed to § 87(2)(b) on June 3, 2008, and on July 8, 2008. To date, § 87(2)(b) has not contacted the investigation with regard to the incident.

§ 87(2)(b)

§ 87(2)(b) is a § 87(2)(b) year old black male. On April 18, 2008, at 9:49 PM, § 87(2)(b) called Internal Affairs, generating log number 08-1205 (encl. 6a – 6f). § 87(2)(b) reported that he and his acquaintance, § 87(2)(b) were about to enter their vehicles when two officers in plainclothes pulled up beside them and asked what was going on. § 87(2)(b) motioned that he was getting into his vehicle and the two officers replied, "You're not going anywhere." The officers asked § 87(2)(b) for his name and he replied that it was "Al." The officers then asked § 87(2)(b) for his ID and instructed him to get against the vehicle. § 87(2)(b) asked why and the officers then grabbed § 87(2)(b). § 87(2)(b) began to stiffen his body, making it difficult for the officers to move him. The officers called for backup and two other officers arrived at the scene. When these four officers could not move § 87(2)(b) another two officers were called to the scene. § 87(2)(b) stated that § 87(2)(b) was punched and kicked in the face and stomped by the officers while he was on the ground. § 87(2)(b) was scraped up and bloody

as a result of this struggle. The officers would not answer § 87(2)(b)'s questions regarding what would happen to § 87(2)(b)'s vehicle or where § 87(2)(b) would be taken. The investigation made the following attempts to contact § 87(2)(b) regarding the incident. A contact letter was sent to § 87(2)(b) on July 30, 2008. Between July 29, 2008, and July 30, 2008, two calls were placed to § 87(2)(b)'s provided number. On the latter of these attempts, § 87(2)(b) refused to provide a statement to the investigator because the incident involving § 87(2)(b) did not concern him. As a result, no further attempts to contact § 87(2)(b) were made.

Police Officer Statements:

Sgt. Jason Digennaro

Sgt. Joseph Digennaro is § 87(2)(b) years old. He is a white male who is 6' tall, weighs 230 pounds and has brown hair and brown eyes. Sgt. Digennaro is assigned to the 101st Precinct and has been a member of the service for eleven years. Sgt. Digennaro was interviewed at the CCRB on July 16, 2008 (encl. 24a – 24c). On the day of the incident, Sgt. Digennaro worked from 5:36 PM to 2:10 PM with PO Ragoo, PO Rome and PO Hinteman. He was in plainclothes, in an unmarked vehicle and was assigned to an anti-crime detail. Sgt. Digennaro's memobook (encl. 22a – 22b) notes that he called for additional units at 8:54 PM in regards to an arrest effected by PO Rome in a parking lot adjacent to the Beach 40 Public Houses. At 9:10 PM, Sgt. Digennaro returned to the 101st Precinct and notified IAB regarding the incident.

Police Reports

Sgt. Digennaro prepared a line of duty injury report (encl. 23) in which he noted that, while attempting to place a defendant under arrest, said defendant struck him with a closed fist about his body, causing pain and injury. The defendant also bent his right arm behind his back, causing pain and injury to his right shoulder. Sgt. Digennaro noted that the defendant had violently resisted arrest. The report noted that Sgt. Digennaro had acted within department guidelines and line of duty designation was recommended.

CCRB Statement

On April 18, 2008, at approximately 8:30 PM, Sgt. Digennaro was conducting routine anti-crime patrol with his partners, PO Douglas Rome, PO Jason Ragoo and PO Timothy Hinteman within the confines of the 101st Precinct in Queens. Sgt. Digennaro was seated in the front passenger's seat of their assigned vehicle. While driving on Beach Channel Drive near Beach 40th Street in Queens, Sgt. Digennaro and his partners observed a group of about eight males gathered in a parking lot adjacent to a public housing building. Only residents of that public housing building are allowed to park in that lot and there are conspicuously posted signs which state that loitering is prohibited. Additionally, Sgt. Digennaro noted that numerous shots fired had been reported in that area.

Sgt. Digennaro and his partners drove into the parking lot and parked several feet behind and to the left of a white or tan BMW, which was illegally parked perpendicular to three or four legally parked vehicles. Sgt. Digennaro asked the group of male individuals whether they knew the owner of the BMW. The individuals responded negatively. Sgt. Digennaro asked whether they lived in the building and they responded negatively. Sgt. Digennaro instructed them to leave, again explaining that only residents of Public Housing property were allowed to be in the area. The individuals began to disperse. One of the individuals, subsequently identified through their interaction as § 87(2)(b) removed a set of keys from his pocket and began walking towards the BMW.

Sgt. Digennaro said to § 87(2)(b) "Excuse me, is that your car?" § 87(2)(b) was standing a few feet from Sgt. Digennaro. § 87(2)(b) said that it was not, but turned again towards the BMW with a set of keys in his hand. Sgt. Digennaro observed that the BMW did not have New York State license plates, though he could not recall which state they were from. In order to park in a public housing parking lot, one's vehicle must have New York State plates. Sgt. Digennaro twice asked § 87(2)(b) for his name and § 87(2)(b) twice replied that his name was "§ 87(2)(b)". Sgt. Digennaro then asked § 87(2)(b) for his ID, which § 87(2)(b) handed to him. Sgt. Digennaro saw that the ID was an Alabama driver's license which

bore the name, § 87(2)(b) Sgt. Digennaro began to open the front passenger's side door. It was his intention to investigate the ownership of the BMW. The fact that § 87(2)(b) denied ownership of the vehicle, but was walking towards it with keys in his hand, did not appear right to Sgt. Digennaro. Sgt. Digennaro never told § 87(2)(b) that he could be issued a summons for double parking.

Sgt. Digennaro opened his door about six to twelve inches. § 87(2)(b) then used the side of his body to slam Sgt. Digennaro's door shut. Sgt. Digennaro did not recall whether § 87(2)(b) said anything at this time. PO Rome and PO Ragoo exited their police vehicle. § 87(2)(b) turned his body to the side and put his left hand in front of his waist. Sgt. Digennaro could not see § 87(2)(b)'s waistband because the side of § 87(2)(b)'s body obstructed his view. This furtive movement indicated to Sgt. Digennaro that § 87(2)(b) was possible armed and led him to fear for his safety.

Upon exiting the vehicle, PO Rome and PO Ragoo began to struggle with § 87(2)(b) when they grasped his arms. Neither Sgt. Digennaro nor any of his partners ever placed their hands around § 87(2)(b)'s neck. § 87(2)(b) held his arms to his side with his hands extended in front of him perpendicularly. He then turned his body back and forth to prevent the officers from restraining him. Sgt. Digennaro and PO Hinteman exited their vehicle and also began to struggle with § 87(2)(b). At this time, it was Sgt. Digennaro's intention to arrest § 87(2)(b) for obstructing governmental administration for the way in which he had prevented the officers from conducting their investigation.

Sgt. Digennaro explained that § 87(2)(b) was about 6'6" tall and weighed approximately 230 pounds. Because of his size and strength, it was very difficult for the officers to restrain him. § 87(2)(b) struck the officers with closed fists. Sgt. Digennaro was struck once on his right shoulder, resulting in an injury which was subsequently documented in line of duty paperwork (encl. 23). PO Hinteman was also struck and injured, though Sgt. Digennaro could not recall where, and line of duty paperwork was later prepared for him as well (encl. 29). PO Rome was also injured as a result of the incident, but no line of duty paperwork was prepared for his injuries. Sgt. Digennaro did not strike § 87(2)(b) with a closed fist. Neither Sgt. Digennaro nor any of his partners kicked § 87(2)(b) in his face or groin area.

As a result of the struggle, a large crowd comprised of about twenty to thirty people began to form. The individuals in this crowd were standing about a car length away from the officers. At some point, Sgt. Digennaro and his partners fell with § 87(2)(b) to the ground. Sgt. Digennaro injured his left knee when he fell to the ground. Sgt. Digennaro could not recall how they ended up on the ground. Sgt. Digennaro did not recall whether § 87(2)(b) was lying face up or face down. Sgt. Digennaro called for additional units around this time. The officers continued to struggle with § 87(2)(b) for a few minutes. § 87(2)(b) was handcuffed on the ground, though Sgt. Digennaro recalled that it took more than one set of handcuffs to restrain him. At one point, one of § 87(2)(b)'s wrists was handcuffed and he continued to resist against the officers. § 87(2)(b) never lost consciousness during the struggle.

Additional units responded to the scene about one to two minutes after Sgt. Digennaro radioed for assistance. Sgt. Digennaro was not sure whether § 87(2)(b) was pepper sprayed. Sgt. Digennaro explained that the only reason it would not have been prudent to pepper spray § 87(2)(b) was the proximity of other officers. As Sgt. Digennaro did not recall experiencing the effects of the pepper spray, he did not think that an officer used pepper spray against him. After § 87(2)(b) was handcuffed, he was placed in a marked police vehicle and brought to § 87(2)(b). Neither Sgt. Digennaro nor his partners were able to frisk or search § 87(2)(b) incident to his arrest. After § 87(2)(b) was removed from the scene, Sgt. Digennaro and his partners secured § 87(2)(b)'s vehicle. The BMW was taken to the 101st Precinct, where officers conducted an inventory search of its property. Sgt. Digennaro recalled that numerous forged plates and a case of untaxed cigarettes were found within the vehicle.

Sgt. Digennaro later went to the hospital before returning to the 101st Precinct. Sgt. Digennaro and PO Hinteman received medical treatment for their injuries at this hospital. Sgt. Digennaro was referred to an orthopedist for his shoulder injury. Sgt. Digennaro stated that § 87(2)(b) was not strip-searched at the hospital. Sgt. Digennaro stated that a cavity search was not conducted of § 87(2)(b) and noted that police officers are never authorized to conduct such a search. There was no reason for which § 87(2)(b) should have been strip-searched following his arrest.

Sgt. Digennaro notified Internal Affairs about the incident because § 87(2)(b) had a minor injury on his face and because his wife is a police officer. The only injury that Sgt. Digennaro recalled observing on § 87(2)(b) was a small bruise on his face. Sgt. Digennaro was presented with a copy of § 87(2)(b)'s arrest photo (encl. 11), in which it was noted that the white of § 87(2)(b)'s left eye was red. Sgt. Digennaro did not know how § 87(2)(b) sustained this injury. At the hospital, Sgt. Digennaro was informed that § 87(2)(b)'s injuries were not serious in nature. § 87(2)(b) was at the hospital for about an hour before he was transported to the 101st Precinct where PO Rome processed his arrest.

PO Douglas Rome

PO Douglas Rome is § 87(2)(b) years old. He is a white male who is 5'8" tall, weighs 155 pounds and has brown hair and hazel eyes. PO Rome is assigned to the 101st Precinct and has been a member of the service for three years. PO Rome was interviewed at the CCRB on July 2, 2008 (encl. 21a – 21c). On the day of the incident, PO Rome was assigned to an anti-crime detail with Sgt. Digennaro, PO Hinteman and PO Ragoo. He worked from 6:00 PM to 2:00 AM in plainclothes in an unmarked police vehicle. PO Rome's memobook (encl. 15a – 15c) notes that § 87(2)(b) was arrested at 8:54 PM at the rear of Beach 41st Street and Beach Channel Drive for § 87(2)(b).

Police Reports

PO Rome prepared the arrest report (encl. 16a – 16c) and complaint report (encl. 17a – 17b) pertaining to § 87(2)(b)'s arrest. PO Rome noted that § 87(2)(b) was arrested on April 18, 2008, at 8:54 PM, at the rear of 40-20 Beach Channel Drive for the following offenses: § 87(2)(b)

§ 87(2)(b) PO Rome reported that § 87(2)(b) obstructed him from conducting a lawful stop and then struck PO Rome about his face and body with a closed fist, causing physical injury. § 87(2)(b) was found to be in possession of forged documents and a quantity of untaxed cigarettes. § 87(2)(b) was removed to § 87(2)(b) from the scene. PO Rome noted that physical force had been used to overcome physical assault and that an officer had been injured.

PO Rome prepared the criminal court complaint (encl. 18a – 18c) pertaining to § 87(2)(b)'s arrest. PO Rome reported that, on the aforementioned date and location, he observed a 1999 BMW parked blocking three parking spaces in a public housing parking lot. He further observed § 87(2)(b) walking towards this vehicle. § 87(2)(b) denied that the vehicle was his, but then attempted to enter the vehicle from the driver's side door. § 87(2)(b) refused to give his full name when asked to do so. PO Rome saw § 87(2)(b) reach into his waistband. § 87(2)(b) was ordered to freeze and PO Rome placed his hand on the hand that § 87(2)(b) had used to reach towards his waistband. § 87(2)(b) then punched Sgt. Digennaro in the shoulder and punched PO Rome in the head. When PO Rome attempted to place § 87(2)(b) under arrest, § 87(2)(b) swung his fists and kicked his feet at PO Rome and assisting officers. Sgt. Digennaro informed PO Rome that § 87(2)(b) had punched him in the shoulder and leg when Sgt. Digennaro attempted to handcuff him. § 87(2)(b) broke free and swung his fist, from which one handcuff was attached, at Sgt. Digennaro. § 87(2)(b) grabbed Sgt. Digennaro's arm, twisted it behind his back, and threw him to the ground.

PO Rome noted in the criminal court complaint that Sgt. Digennaro had informed him that § 87(2)(b)'s actions caused him to suffer a torn rotator-cuff; bruising, swelling, and cuts to his hand; a partially torn fingernail to his gun hand; bruising and swelling to his knee and substantial pain. PO Hinteman informed PO Rome that § 87(2)(b) kicked him in his shoulder and leg when he was on the ground struggling with § 87(2)(b). PO Hinteman sustained bruising, swelling and cuts to his shin, muscular damage to his shoulder and substantial pain. Sgt. Digennaro and PO Hinteman were removed to a hospital as a result of their injuries. § 87(2)(b)'s actions also caused PO Rome to suffer swelling to his head and substantial pain. PO Rome reported that he recovered two forged Delaware temporary license plates from the back seat of the BMW and one hundred and forty-nine packs of Newport® cigarettes which did not have tax stamps.

PO Rome prepared an AIDED report worksheet for PO Hinteman (encl. 19a – 19g) in which he noted that PO Hinteman sustained an abrasion to his right shin and complained of pain in his right shoulder, which he sustained when he fell to the ground. PO Rome additionally reported that he had observed PO Hinteman kicked while attempting to effect a lawful arrest. PO Hinteman was removed to § 87(2)(b) and seen by Dr. Lozanoff. PO Rome also prepared an AIDED report worksheet for Sgt. Digennaro (encl. 20) in which he noted that Sgt. Digennaro was injured while assisting in placing a perpetrator under arrest. The perpetrator struck Sgt. Digennaro with a closed fist, causing injury. Sgt. Digennaro was also injured with the perpetrator twisted his arm behind back while violently resisting arrest.

CCRB Statement

On April 18, 2008, at approximately 8:00 PM, PO Rome was conducting routine patrol with his partners, Sgt. Jason Digennaro, PO Timothy Hinteman and PO Jason Ragoo within the confines of the 101st Precinct in Queens. PO Rome was seated behind PO Hinteman, who was the operator of their police vehicle. PO Ragoo was seated beside PO Rome and Sgt. Digennaro was seated in the front passenger's seat. The officers turned into a parking lot off of Beach 41st Street and Beach Channel Drive in Queens, which is adjacent to a public housing complex. A male individual, subsequently identified as § 87(2)(b) was walking towards an illegally parked BMW. PO Rome's statement regarding § 87(2)(b)'s actions prior to his subsequent arrest and the officers' suspicions regarding his vehicle were consistent with Sgt. Digennaro's testimony.

Sgt. Digennaro opened the front passenger's door and attempted to exit the vehicle. § 87(2)(b) would not move aside. As a result, Sgt. Digennaro could not exit. It was the officers' intention to conduct an investigation into why § 87(2)(b) had said the vehicle wasn't his, but was clearly walking towards the vehicle with keys in his hand; why the vehicle had Delaware license plates, and yet § 87(2)(b) had an Alabama driver's license; and see whether the white BMW had a public housing decal or if § 87(2)(b) was trespassing on public housing property.

PO Rome and PO Ragoo exited their vehicle at this time. PO Hinteman initially remained in the vehicle. PO Rome walked around the rear of his vehicle. When he reached the passenger's side of the police vehicle, he observed Sgt. Digennaro engaged in a physical struggle with § 87(2)(b). PO Rome did not see how the struggle began. Sgt. Digennaro later informed PO Rome that § 87(2)(b) had struck him. Sgt. Digennaro was attempting to handcuff § 87(2)(b) who was shrugging his shoulders and flailing his arms. § 87(2)(b) may also have struck Sgt. Digennaro. PO Hinteman had exited the vehicle by the time PO Rome reached the passenger's side of the vehicle.

PO Rome, PO Ragoo and PO Hinteman immediately began to assist Sgt. Digennaro in his attempts to restrain § 87(2)(b). None of the officers ever placed their hands around § 87(2)(b)'s neck. The struggle lasted about six to seven minutes. PO Rome remarked that § 87(2)(b) appeared to be about 6'2" tall and approximately 250 pounds. § 87(2)(b) was far larger than PO Rome or any of his partners. It was therefore difficult for the officers to restrain him. At one point, § 87(2)(b) struck PO Rome on the top of his head with what felt like a closed fist. PO Rome was not injured as a result of this blow. PO Rome punched § 87(2)(b) on one occasion, though he could not recall where on § 87(2)(b)'s body. PO Rome stated that he punched § 87(2)(b) in order to overcome physical assault.

The officers pulled § 87(2)(b) to the passenger's side of the vehicle and attempted to place his torso against the vehicle so as to gain leverage and secure him in handcuffs. Sgt. Digennaro stepped to the side and requested additional units over the radio at this time. Before the officers could secure § 87(2)(b) in handcuffs, all four officers and § 87(2)(b) fell onto the ground. PO Rome said that the situation was so chaotic that he could not recall how he and his partners ended upon the ground, or what physical actions he and his partners took to bring § 87(2)(b) to the ground. When he fell, PO Rome ended up underneath some of his partners and § 87(2)(b).

PO Rome could not recall whether § 87(2)(b) was faced upwards or lying on his stomach. At some point after Sgt. Digennaro called for assistance, § 87(2)(b) was pepper sprayed. PO Rome did not recall who pepper sprayed him and did not see where § 87(2)(b) was pepper sprayed. PO Rome explained that § 87(2)(b)

§ 87(2)(b) was pepper sprayed in order to avoid the use of an asp or baton and thus use the minimum amount of force necessary to secure him in handcuffs. It never appeared as though § 87(2)(b) lost consciousness.

Additional units eventually responded to the scene. § 87(2)(b) was eventually secured in handcuffs. When PO Rome was able to stand up, he observed that there were numerous individuals from the nearby public housing building standing close to the officers. These individuals were watching the incident and were being held back by other officers who had responded to the scene in response to Sgt. Digennaro's radio transmission. Once he was secured in handcuffs, § 87(2)(b) was placed in a police vehicle and transported to § 87(2)(b) to receive treatment for exposure to pepper spray. PO Rome observed that § 87(2)(b) had facial bruises, but PO Rome did not believe that § 87(2)(b) had any other injuries. PO Rome was presented with a copy of § 87(2)(b)'s arrest photograph (encl. 11), and asked to explain the manner in which the white of § 87(2)(b)'s left eye had become red. PO Rome hypothesized that it was due to the pepper spray.

PO Rome did not recall who transported § 87(2)(b) to the hospital. PO Rome never went to the hospital, either with § 87(2)(b) or later that evening. When § 87(2)(b) was transported to the hospital, PO Rome did not know whether any officers suspected that § 87(2)(b) had contraband concealed on his person. PO Rome did not see any officers frisk or search § 87(2)(b) at the scene, though he assumed that someone did so. PO Rome did not know whether § 87(2)(b) was strip-searched or cavity searched while at the hospital. Both PO Hinteman and Sgt. Digennaro were also injured as a result of the incident. Aside from stating that Sgt. Digennaro's shoulder was injured, PO Rome did know the specifics of their injuries.

When § 87(2)(b) was transported to the hospital, PO Rome remained at the scene and later searched the white BMW. He discovered forged Delaware plates, forged temporary plates, regular temporary plates, untaxed cigarettes and miscellaneous personal property. All of these items, including the BMW, were taken to the precinct and vouchered. PO Rome then returned to the 101st Precinct stationhouse. PO Rome did not recall who went with him to the stationhouse. PO Rome prepared § 87(2)(b)'s arrest paperwork. When § 87(2)(b) was returned to the 101st Precinct, PO Rome fingerprinted him and finished processing his arrest. PO Rome later transferred § 87(2)(b) to Queens Central Booking.

PO Jason Ragoo

PO Jason Ragoo is § 87(2)(b) years old. He is an Asian male who is 5'7" tall, weighs 185 pounds and has black hair and brown eyes. PO Ragoo is assigned to the 101st Precinct and has been a member of the service for three years. PO Ragoo was interviewed at the CCRB on July 3, 2008 (encl. 27a – 27c). On the day of the incident, PO Ragoo was assigned to an anti-crime detail and worked in plainclothes from 6:00 PM to 2:00 AM with Sgt. Digennaro, PO Hinteman and PO Rome in an unmarked vehicle. PO Ragoo's memobook (encl. 25a – 25b) notes that, at 8:50 PM, one male was stopped at the rear of Beach 41st Street and Beach Channel Drive. At 8:51 PM, PO Ragoo noted that an officer had called for assistance and one arrest was effected.

Police Reports

PO Ragoo prepared an AIDED report worksheet (encl. 26) for Sgt. Digennaro, in which he reported that Sgt. Digennaro had injured his right shoulder, left hand and left knee while effecting the arrest of a perpetrator. Sgt. Digennaro was removed to § 87(2)(b) in a police vehicle, treated and released.

CCRB Statement

On April 18, 2008, at approximately 8:30 AM, PO Ragoo was conducting routine patrol with his partners, Sgt. Jason Digennaro, PO Timothy Hinteman and PO Douglas Rome within the confines of the 101st Precinct. PO Hinteman was the operator of their assigned unmarked vehicle and PO Ragoo was seated behind Sgt. Digennaro in the rear passenger's side seat. Near the corner of Beach Channel Drive and Beach 41st Street in Queens, PO Ragoo and his partners observed an illegally parked vehicle inside of a parking lot. As they entered the parking lot, they observed a male, subsequently identified as § 87(2)(b)

walking towards the illegally parked vehicle. § 87(2)(g)

When Sgt. Digennaro opened the front passenger's side door, § 87(2)(b) quickly shut it before Sgt. Digennaro could step out of the police vehicle. Sgt. Digennaro again tried to open the door. § 87(2)(b) shut the door again and pushed his body against the door to prevent Sgt. Digennaro from exiting the vehicle. PO Ragoo, PO Rome and PO Hinteman exited the vehicle at this time. It was their intention to place § 87(2)(b) under arrest for obstructing governmental administration. When PO Ragoo exited the vehicle, he saw that Sgt. Digennaro had finally been able to exit as well.

As PO Ragoo exited the rear passenger's side of the vehicle, he observed § 87(2)(b) reach both hands toward the front of his waistband. When § 87(2)(b) reached towards his waistband, PO Ragoo immediately thought that § 87(2)(b) may have had a weapon and feared for his safety. Sgt. Digennaro and PO Ragoo were the first officers to come into contact with § 87(2)(b). Both officers grasped § 87(2)(b)'s arms. PO Ragoo and his partners never placed their hands around § 87(2)(b)'s neck. § 87(2)(b) began to pull away from the officers, so PO Ragoo grasped § 87(2)(b)'s legs. PO Ragoo grasped his legs because § 87(2)(b) was 6'2" tall and very strong. It was difficult for the officers to control § 87(2)(b) by grasping his arms alone, so PO Ragoo grasped his legs in an attempt to immobilize him.

§ 87(2)(b) resisted the officers' efforts to restrain him by throwing punches, kneeling the officers and generally bucking his body. PO Ragoo was kneed in the chest while holding § 87(2)(b)'s legs. PO Ragoo did not recall where PO Rome and PO Hinteman were holding § 87(2)(b) on his body. PO Ragoo punched § 87(2)(b) during the struggle, though he could not recall where on § 87(2)(b)'s body or how many times. PO Ragoo punched § 87(2)(b) after he was kneed in the chest and after § 87(2)(b) threw small, closed fist punches towards his partners. PO Ragoo and his partners attempted to place § 87(2)(b)'s torso against the passenger's side of the vehicle in an attempt to restrain him. Somehow, PO Ragoo and his partners fell to the ground with § 87(2)(b) where they continued to struggle. PO Ragoo did not know how they ended up on the ground. At some point, one of PO Ragoo's partners called for additional units.

While on the ground, a crowd began to form around the officers and § 87(2)(b). The individuals in this crowd began to curse at the officers. Some of the people in the crowd rushed at the officers, but none of these individuals came into physical contact with them. Because the officers could not secure § 87(2)(b) through strength alone, because he refused to comply and had already struck at several officer and due to the nature of the crowd, PO Ragoo decided to pepper spray § 87(2)(b) in the face. § 87(2)(b) continued to struggle with the officers after being pepper sprayed. PO Ragoo and his partners struggled with § 87(2)(b) on the ground for approximately ten minutes before eventually securing him in handcuffs. PO Ragoo did not recall which officer handcuffed § 87(2)(b). It never appeared as though § 87(2)(b) lost consciousness during the struggle.

Additional units responded to the scene towards the conclusion of the struggle. These officers immediately assumed crowd control duties because the original crowd had swelled to approximately one hundred people. PO Ragoo and his partners frisked and searched § 87(2)(b) after he was handcuffed. No contraband or weapons were found on his person. § 87(2)(b) was then placed in a marked police vehicle. PO Ragoo observed that § 87(2)(b) had facial bruises. § 87(2)(b) was transported to § 87(2)(b) principally for being pepper sprayed. Aside from the facial bruises, PO Ragoo did not observe or know of any additional injuries on § 87(2)(b)'s person. When shown a copy of § 87(2)(b)'s arrest photo, which showed that the white of his left eye was red, PO Ragoo assumed that the injury was due to the pepper spray. PO Ragoo never went to the § 87(2)(b) later that evening and did not know which officers transported § 87(2)(b) to the hospital. PO Ragoo did not know whether a strip search or a cavity search was conducted at the hospital.

As a result of the struggle, PO Hinteman and Sgt. Digennaro were injured. PO Ragoo did not recall what the specifics of these injuries. PO Ragoo knew that these officers were provided with medical treatment,

but did not recall where or by whom. PO Ragoo and PO Hinteman secured § 87(2)(b)'s vehicle at the scene, transported it to the 101st Precinct, and conducted an inventory search of the vehicle at the precinct. PO Ragoo discovered forged plates and untaxed cigarettes in § 87(2)(b)'s vehicle.

PO Timothy Hinteman

PO Timothy Hinteman is § 87(2)(b) years old. He is a white male who is 5'11" tall, weighs 230 pounds and has blonde hair and blue eyes. At the time of the incident, PO Hinteman was assigned to the 101st Precinct and held the rank of Police Officer. PO Hinteman has since been promoted to the rank of Sergeant and is now assigned to the 104th Precinct. PO Hinteman has been a member of the service for six years. PO Hinteman was interviewed at the CCRB on July 22, 2008 (encl. 30a – 30c). On the day of the incident, PO Hinteman worked from 5:30 PM to 2:05 AM with Sgt. Digennaro, PO Rome and PO Ragoo. They were assigned to anti-crime, working in plainclothes and were in an unmarked vehicle, of which PO Hinteman was the operator. There were no entries in PO Hinteman's memobook (encl. 28a – 28b) regarding the incident.

Police Reports

PO Hinteman prepared a line of duty injury report (encl. 29) in which he reported that he was kicked in the right shin and injured his right shoulder while falling to the ground when attempting to overcome assault by a perpetrator. The report noted that PO Hinteman was acting within departmental guidelines and was treated and released from the hospital.

CCRB Statement

On April 18, 2008, at approximately 8:00 PM, PO Hinteman and his partners, Sgt. Jason Digennaro, PO Douglas Rome and PO Jason Ragoo were conducting routine patrol in the vicinity of Beach Channel Drive and Beach 40th Street in Queens. They drove into a public housing parking lot, where they observed a vehicle that was illegally parked perpendicular to three other vehicles. The officers saw a male, subsequently identified through his arrest as § 87(2)(b) walking towards the driver's side of this vehicle. § 87(2)(g)

Sgt. Digennaro opened his door a few inches and § 87(2)(b) pushed the door closed with his upper body and then leaned his torso against the door to keep it closed. Sgt. Digennaro repeatedly told § 87(2)(b) to step back. At this time, § 87(2)(b) was obstructing governmental administration by not allowing Sgt. Digennaro to conduct an official police investigation. PO Rome and PO Ragoo exited the back of the police vehicle. Sgt. Digennaro pushed against § 87(2)(b) and was able to exit the vehicle as PO Rome and PO Ragoo approached him. § 87(2)(b) stepped back from the vehicle, turned towards the illegally parked vehicle and reached down with his right arm towards the middle of his waistband. This indicated to PO Hinteman that § 87(2)(b) was possibly armed. PO Hinteman remained in the unmarked vehicle until he saw PO Rome and PO Ragoo grasp § 87(2)(b)'s arms and attempted to draw them behind his back. PO Hinteman then exited his vehicle and assisted his partners in restraining § 87(2)(b).

As soon as PO Rome and PO Ragoo placed their hands on § 87(2)(b)'s arms, he began to shrug their hands off. Neither PO Hinteman nor his partners ever placed their hands around § 87(2)(b)'s neck. A crowd began to form as soon as the physical struggle ensued. § 87(2)(b) locked his hands at his side, began twisting his body and thrusting his elbows at the officers. PO Hinteman and his partners placed § 87(2)(b) against the hood of the unmarked vehicle in an attempt to handcuff him. § 87(2)(b) continued to resist, and his stature prevented the officers from effectively handcuffing him. § 87(2)(b) is about 6' to 6'2" tall and weighed about 230 pounds. PO Hinteman reached down and grabbed one of § 87(2)(b)'s legs. PO Hinteman was kicked once or twice somewhere on his lower body. PO Hinteman pulled § 87(2)(b) to the ground. PO Hinteman and his partners toppled to the ground with him. PO Hinteman landed on his elbow, the impact of which injured his shoulder, and on his knees, which were also bruised. As a result of the struggle, Sgt. Digennaro's shoulder was injured. PO Hinteman did not know how Sgt. Digennaro sustained this injury.

Once on the ground, § 87(2)(b) continued to struggle and Sgt. Digennaro called for additional assistance. At some point during the struggle, one of PO Hinteman's partners pepper sprayed § 87(2)(b). PO Hinteman did not see § 87(2)(b) pepper sprayed and did not know where he was pepper sprayed, though he assumed that it was in the face. PO Hinteman knew that § 87(2)(b) had been pepper sprayed because he could taste the pepper spray in the air. PO Hinteman pressed down on the back of § 87(2)(b)'s lower legs with his arms in order to gain compliance and hold him in place. PO Rome may also have punched § 87(2)(b) at some point. PO Hinteman and his partners were eventually able to secure one of § 87(2)(b)'s wrists in one set of handcuffs. § 87(2)(b) flailed this arm away from the officers' grasp before one of PO Hinteman's partners was able to secure it to § 87(2)(b)'s other wrist in an additional set of handcuffs. The entire struggle lasted about two or three minutes.

By this time, the crowd had grown larger and the individuals within this crowd were about five feet from PO Hinteman, his partners and § 87(2)(b). When additional officers responded to the scene, they immediately assumed crowd control duties. Once § 87(2)(b) was handcuffed, one of PO Hinteman's partners frisked him and he was escorted to a marked police vehicle. § 87(2)(b) was transported to § 87(2)(b). PO Hinteman did not recall who transported him to the hospital. At the time in which he was transported to the hospital, PO Hinteman did not have any reason to believe that there was any contraband on his person. To the best of PO Hinteman's knowledge, § 87(2)(b) was never strip-searched or cavity-searched while at the hospital.

The only injury PO Hinteman recalled seeing on § 87(2)(b) was facial bruising. § 87(2)(b) never lost consciousness during the incident. PO Hinteman was presented with § 87(2)(b)'s arrest photo, in which the white of § 87(2)(b)'s left eye appeared red. PO Hinteman assumed that this was due to the pepper spray. § 87(2)(b) was only at the hospital for about an hour before he was brought to the 101st Precinct. PO Hinteman drove § 87(2)(b)'s vehicle from the scene of his arrest to the 101st Precinct, where an inventory search was conducted. PO Hinteman recalled that two forged plates and a box of untaxed cigarettes were discovered within the vehicle. PO Hinteman later went to § 87(2)(b) and received medical treatment for his elbow, shoulder and knees. He was diagnosed with a soft tissue injury.

PO Jolan Lewis

PO Jolan Lewis is § 87(2)(b) years old. He is a black male who is 5'7" tall, weighs 145 pounds and has brown hair and brown eyes. PO Lewis is assigned to the 101st Precinct and has been a member of the service for four years. PO Lewis was interviewed at the CCRB on August 21, 2008 (encl. 32a – 32b). On the day of the incident, PO Lewis was assigned to sector patrol with PO Caputo. He worked from 3:35 PM to 11:35 PM in uniform and was assigned to radio motor patrol vehicle 1988. PO Lewis' memobook (encl. 31a – 31b) notes that at 9:15 PM, he transported one prisoner to the hospital and transported him to the 101st Precinct at 11:10 PM.

CCRB Statement

On April 18, 2008, at approximately 9:00 PM, PO Lewis and his partner, PO Vincent Caputo, responded to a call for assistance originating from a parking lot near Beach 40th Street and Beach Channel Drive in Queens. PO Lewis was the operator of his assigned vehicle. When PO Lewis arrived at this location, approximately ten units were already at the scene. Because the parking lot was located adjacent to a public housing building, a number of residents had formed a crowd at the scene of the incident. Upon his arrival, PO Lewis exited his vehicle and joined other officers in conducting crowd control duties. PO Lewis was only at the location for a few minutes. PO Lewis was then instructed to transport an individual, identified through his arrest as § 87(2)(b) to § 87(2)(b). PO Lewis did not know who gave him these instructions. PO Lewis returned to his vehicle. § 87(2)(b) was already in the back seat. PO Lewis did not know which officers placed § 87(2)(b) inside the vehicle. PO Lewis believed that he and his partner were instructed to transport § 87(2)(b) to the hospital because they were the closest vehicle to § 87(2)(b). PO Lewis had not seen § 87(2)(b) before he was placed in his vehicle. PO Lewis never saw any officers use any physical force against him. PO Lewis did not see § 87(2)(b) frisked or searched at the scene.

It took about five minutes for PO Lewis to drive to § 87(2)(b). PO Lewis did not recall § 87(2)(b) doing or saying anything while in transport. When PO Lewis arrived at the hospital, he and PO Caputo escorted § 87(2)(b) into the emergency room. PO Lewis did not recall seeing any injuries on § 87(2)(b). PO Lewis was presented with § 87(2)(b)'s arrest photo (encl. 11), in which the white of § 87(2)(b)'s left eye is red. PO Lewis did not recall observing this injury. PO Lewis did not know for which injuries § 87(2)(b) was transported to the hospital. PO Lewis never observed any lacerations or abrasions on his face, head or arms.

PO Lewis and PO Caputo remained with § 87(2)(b) for the duration of the time in which he was at the hospital. During that time, medical personnel examined him and a nurse flushed out § 87(2)(b)'s eye. PO Lewis did not remember hearing that § 87(2)(b) had been pepper sprayed at the scene of his arrest. Medical personnel removed § 87(2)(b)'s clothing so that he could put on a hospital robe. PO Lewis did not assist in removing § 87(2)(b)'s clothing. When medical personnel removed his clothing, they gave it to PO Lewis. PO Lewis then placed the clothing in a bag, which he then placed underneath the bed. PO Lewis did remove § 87(2)(b)'s wallet so that he could obtain his ID and fill out his medical paperwork. PO Lewis never examined, felt or looked through § 87(2)(b)'s clothing.

PO Lewis did not know whether it was a concern that § 87(2)(b) had any contraband on his person. PO Lewis did not know the circumstances surrounding § 87(2)(b)'s arrest. PO Lewis never performed a cavity search of § 87(2)(b). PO Lewis never came into physical contact with § 87(2)(b) while he was at the hospital. PO Lewis stated that a police officer would never perform a cavity search of an individual. PO Lewis did not see any medical personnel conduct a cavity search of § 87(2)(b). PO Lewis stated that, from what he knew, there was no reason for a cavity search to be conducted. PO Lewis and PO Caputo transported § 87(2)(b) back to the 101st Precinct at approximately 11:00 PM and had no further interaction with him before ending their tour.

PO Vincent Caputo

PO Vincent Caputo is § 87(2)(b) years old. He is a white male who is 6' tall, weighs 220 pounds and has brown hair and brown eyes. PO Caputo is assigned to the 101st Precinct and has been a member of the service for four years. PO Caputo was interviewed at the CCRB on August 21, 2008 (encl. 34a – 34b). On the day of the incident, PO Caputo was assigned to sector patrol with PO Lewis. He worked from 4:00 PM to 12:00 AM in uniform and was assigned to radio motor patrol vehicle 1988. PO Caputo's memobook (encl. 33a – 33b) reflects that at 9:50 PM, he transported one prisoner to § 87(2)(b) and transported this prisoner back to the 101st Precinct at 11:00 PM.

CCRB Statement

On April 18, 2008, at approximately 9:00 PM, PO Caputo and his partner, PO Jolan Lewis, responded to a call for assistance originating from a parking lot near Beach 40th Street and Beach Channel Drive in Queens. When PO Caputo arrived at this location, multiple units were already at the scene. A number of individuals had formed a crowd at the scene. PO Caputo saw that other officers had assumed crowd control duties, but he never joined these officers in doing so. PO Caputo exited his vehicle to see whether any officers needed any assistance. An individual, identified by the investigation as § 87(2)(b), was immediately placed in PO Caputo's assigned vehicle. PO Caputo had not seen § 87(2)(b) when he arrived at the scene, did not know the circumstances surrounding his arrest and did not know which officers placed him in his vehicle. PO Caputo never saw any officers use any physical force against him. § 87(2)(b) was placed in PO Caputo's vehicle because it was the closest to § 87(2)(b). Sgt. Digennaro instructed PO Caputo to bring § 87(2)(b) to § 87(2)(b). PO Caputo did not know for what injuries § 87(2)(b) was being transported to the hospital. PO Caputo never saw § 87(2)(b) lose consciousness.

PO Caputo never physically looked at § 87(2)(b) until they arrived at the hospital. It took about five to ten minutes to drive from the scene of § 87(2)(b)'s arrest to the hospital. PO Caputo did not recall § 87(2)(b) doing or saying anything during this time. When PO Caputo arrived at the hospital, he and PO

Lewis escorted § 87(2)(b) into the emergency room. PO Caputo observed that § 87(2)(b) had some sort of injury on his eye, which § 87(2)(b) also began to verbally complain about. Aside from his eye, § 87(2)(b) did not complain of any other injuries. PO Caputo was presented with § 87(2)(b)'s arrest photo (encl. 11), in which the white of § 87(2)(b)'s left eye is red. PO Caputo stated that this was consistent with the injury which he had observed on § 87(2)(b). PO Caputo never observed any other injuries on § 87(2)(b)'s person.

PO Caputo and PO Lewis remained with § 87(2)(b) for the duration of the time in which he was at the hospital. During that time, a nurse flushed out § 87(2)(b)'s eye. PO Caputo did not remember hearing that § 87(2)(b) had been pepper sprayed. Medical personnel removed § 87(2)(b)'s clothing so that he could put on a hospital robe. Neither PO Caputo nor PO Lewis ever assisted in removing § 87(2)(b)'s clothing. PO Caputo stated he never suspected that § 87(2)(b) had secreted contraband on his person. PO Lewis never performed a cavity search of § 87(2)(b). PO Caputo stated that a police officer would never perform a cavity search of an individual. PO Caputo did not see any medical personnel conduct a cavity search of § 87(2)(b). PO Caputo stated that, from what he knew, there was no reason for a cavity search to be conducted. PO Caputo and PO Lewis never came within physical contact with § 87(2)(b) while they were at the hospital. PO Caputo and PO Lewis transported § 87(2)(b) back to the 101st Precinct at approximately 11:00 PM and had no further interaction with him before ending their tour.

Sgt. Frank Dichristina

Sgt. Frank Dichristina is § 87(2)(b) years old. He is a white male who is 6'1" tall, weighs 240 pounds and has brown hair and brown eyes. Sgt. Dichristina is assigned to the 101st Precinct and has been a member of the service for thirteen years. Sgt. Dichristina was interviewed at the CCRB on August 14, 2008 (encl. 42a – 42b). On the day of the incident, Sgt. Dichristina was the assigned patrol supervisor and worked from 2:40 PM to 11:47 PM in uniform with PO Simon in marked police vehicle number 5200. Sgt. Dichristina's memobook (encl. 41a – 41b) notes that at 8:45 PM, he responded to a call for assistance and resumed patrol at 9:05 PM.

CCRB Statement

On April 18, 2008, at approximately 8:45 PM, Sgt. Dichristina and his partner, PO Robert Simon, responded to a call for assistance made by a member of an anti-crime team originating from Beach 40th Street and Beach Channel Drive in Queens. When Sgt. Dichristina arrived at this location, there were already about eight units at the scene. Sgt. Dichristina observed that a male, identified through the investigation as § 87(2)(b) was in handcuffs and was being escorted to a police vehicle. There was a large crowd at the location and Sgt. Dichristina immediately assumed crowd control duties. His back was turned towards § 87(2)(b) and he did not see whether § 87(2)(b) resisted.

Sgt. Dichristina was at the location for about fifteen minutes. Sgt. Dichristina never spoke with or interacted with § 87(2)(b) in any way. After Sgt. Dichristina resumed patrol, he responded to an assault in progress. Neither Sgt. Dichristina nor his partner ever went to § 87(2)(b). It was pointed out that an initial IAB log (encl. 6a – 6f) indicated that Sgt. Dichristina had informed central that § 87(2)(b) was being transported to this hospital. Sgt. Dichristina stated that he never made any notifications to Internal Affairs with respect to the incident, as he was not involved in the initial stop of § 87(2)(b) and pointed out that the tax number next to his name on this log was incorrect.

PO Robert Simon

PO Robert Simon is § 87(2)(b) years old. He is a white male who is 6'1" tall, weighs 210 pounds and has brown hair and blue eyes. PO Simon is assigned to the 101st Precinct and has been a member of the service for four years. PO Simon was interviewed at the CCRB on July 24, 2008 (encl. 40a – 40b). On the day of the incident, PO Simon was the assigned sergeant's operator and worked from 3:00 PM to 11:35 PM in radio motor patrol vehicle 5200. PO Simon did not have any entries in his memobook (encl. 39a – 39c) regarding the incident.

CCRB Statement

On April 18, 2008, at approximately 8:00 PM, PO Simon and his partner, Sgt. Frank Dichristina, responded to a parking lot near Beach Channel Drive and Beach 40th Street in Queens in response to a call for assistance. They were among the last officers to arrive at the scene. There were a few individuals in the area, but whatever crowd had been at the location had dispersed by the time PO Simon arrived. PO Simon was presented with a photograph of § 87(2)(b) which he did not find familiar in any way. PO Simon did not recall anything regarding a white BMW.

PO Simon and Sgt. Dichristina parked their vehicle. PO Simon went over to a group of civilians standing near a sidewalk. PO Simon did not know whether Sgt. Dichristina went with him. While he was at the scene, he never saw any officers use any physical force against anyone. PO Simon did not hear anyone complain of any injuries and did not see anyone pepper sprayed. PO Simon did not transport anyone to § 87(2)(b). PO Simon returned to the 101st Precinct after leaving the scene of the incident.

Police Officers Interviewed with No Recollection of the Incident

PO Fitzroy Woodhouse

PO Fitzroy Woodhouse is § 87(2)(b) years old. PO Woodhouse is a black male who is 5'11" tall, weighs 190 pounds and has black hair and brown eyes. He is assigned to the 101st Precinct and has been a member of the service for six years. PO Woodhouse was interviewed at the CCRB on July 23, 2008 (encl. 38a – 38b). On the day of the incident, PO Woodhouse was assigned to sector patrol with PO Pierre and worked from 3:00 PM to 11:35 PM in radio motor patrol vehicle 2710. There were no entries in PO Woodhouse's memobook (encl. 37a – 37b) pertaining to the incident.

PO Damian Merriweather

PO Damian Merriweather is § 87(2)(b) years old. He is a black male who is 5'10" tall, weighs 155 pounds and has black hair and brown eyes. PO Merriweather is assigned to the 101st Precinct and has been a member of the service for two years. PO Merriweather was interviewed at the CCRB on July 23, 2008 (encl. 36a – 36b). On the day of the incident, PO Merriweather was assigned to sector patrol with PO Barnes and worked from 3:00 PM to 11:35 PM in radio motor patrol vehicle 2710. There were no entries in PO Merriweather's memobook (encl. 35a – 35b) pertaining to the incident.

CCRB Statements

PO Woodhouse and PO Merriweather did not have any recollection of an incident transpiring on April 18, 2008, at approximately 8:00 PM, in a parking lot near Beach Channel Drive and Beach 40th Street. PO Woodhouse and PO Merriweather did not recall responding to a call for assistance at this location. They were presented with a photograph of § 87(2)(b) which they did not find familiar in any way. Neither PO Woodhouse nor PO Merriweather ever transported or guarded an arrestee at § 87(2)(b) on the day of the incident. Both PO Woodhouse and PO Merriweather stated that they have never strip-searched or cavity-searched anyone.

Video Footage Pertaining to the Incident

§ 87(2)(b) stated that he took video footage of the incident (encl. 13a – 13e). He gave the only existing copy of this footage to § 87(2)(b) § 87(2)(b)'s criminal attorney. The investigator spoke with § 87(2)(b) on May 8, 2008 (encl. 52c), at which time § 87(2)(b) refused to provide the investigator with the video footage as this would compromise § 87(2)(b)'s criminal court case. Between May 8, 2008, and July 24, 2008, five calls were placed to § 87(2)(b) § 87(2)(b) provided number. To date, § 87(2)(b) has failed to contact the investigator with regard to the video footage. The investigator contacted ADA Chao on July 30, 2008 (encl. 52i), to determine whether the District Attorney's office possessed a copy of the video footage. ADA Chao informed the investigator that she did not have a copy of the video

footage, as § 87(2)(b) had yet to provide one to her. As a result, the investigation was ultimately unable to obtain a copy of the video footage pertaining to the incident.

Medical Records:

§ 87(2)(b) Medical Records

§ 87(2)(b) refused to sign an authorization for the release of medical records at the time of his interview with the CCRB. The investigation contacted § 87(2)(b) on five occasions between May 7, 2008, and June 17, 2008. Each time, § 87(2)(b) stated that he would discuss the matter with his attorney and return the investigator's call, though he ultimately failed to do so. A final letter was sent to § 87(2)(b) regarding the importance of obtaining his medical records on June 17, 2008. To date, § 87(2)(b) has failed to contact the investigation with regard to this matter. Two subpoenas sent to § 87(2)(b) after an authorization form from § 87(2)(b) was obtained through Internal Affairs, were returned with a note stipulating that § 87(2)(b) had not received treatment on the date in question. Though the investigator spoke with § 87(2)(b) on May 8, 2008 (encl. 52c) regarding the importance of obtaining § 87(2)(b)'s medical records, § 87(2)(b) stated only that he would speak with § 87(2)(b) regarding the importance of signing an authorization form. Between May 8, 2008, and July 24, 2008, five calls were placed to § 87(2)(b) provided number. To date, § 87(2)(b) has failed to contact the investigator with regard to § 87(2)(b)'s medical records. As a result, the investigation was ultimately unable to obtain any medical records from § 87(2)(b) regarding § 87(2)(b)'s treatment on the day of the incident.

Medical Treatment of Prisoner Form

A medical treatment of prisoner form (encl. 43) was prepared for § 87(2)(b) on April 18, 2008. The report noted that § 87(2)(b) had facial bruises and had been treated at a hospital earlier that day.

Pre-Arraignment Screening Form

A pre-arraignment screening form (encl. 44a – 44b) was prepared for § 87(2)(b) on April 19, 2008. The form noted that he was not presently sick and had a facial injury. The form noted that § 87(2)(b) had been treated and released at a hospital.

Communications Records:

SPRINT Record

The SPRINT record (encl. 45a – 45c) notes that an anti-crime sergeant requested additional units to a parking lot located in a parking lot connected to a Beach 40th Street public housing building. At 8:49 PM, a patrol sergeant from the 101st Precinct responded to the location and informed central that the crowd was under control. At 8:50 PM, an additional patrol sergeant, a patrol lieutenant, Sector A and Sector E from the 101st Precinct responded to the scene. At 8:54 PM, an anti-crime unit reported one arrest from the location. At 8:56 PM, Sector A resumed patrol. At 9:24 PM, the patrol sergeant resumed patrol. At 9:35 PM, Sector E resumed patrol. At 9:37 PM, the patrol lieutenant, the second patrol sergeant, an open vehicle from the 101st Precinct, and the anti-crime unit resumed patrol. At 11:41 PM, the anti-crime unit called in the final disposition of the call as a 10-92C (crime arrest).

Police Department Records:

101st Precinct Roll Call

The roll call for April 18, 2008 (encl. 46a – 46d) notes that Sgt. Dichristina was the assigned patrol supervisor and Sgt. Digennaro was the assigned anti-crime supervisor. PO Hinteman, PO Rome, and PO Ragoo were assigned to anti-crime. PO Simon was the assigned patrol supervisor's operator. PO Merriweather, PO Woodhouse, PO Lewis and PO Caputo were assigned to sector patrol.

101st Precinct Command Log

The command log (encl. 47) for April 18, 2008, notes that § 87(2)(b) was arrested by PO Rome at the rear of 40-20 Beach Channel Drive for § 87(2)(b). The command log noted that § 87(2)(b) had a bruised eye and was removed to § 87(2)(b) from the scene of his arrest in leg shackles. He was taken to the precinct at 11:40 PM and to Central Booking at 5:30 AM.

Property Vouchers

The following property was vouchered as evidence in § 87(2)(b)'s arrest (encl. 48a – 48g): One black Sanyo cellular telephone and battery, one silver Sprint telephone and battery, and one black phone case; two forged temporary Delaware plates; fifteen cartons of Newport® cigarette boxes; Nine hundred and twenty five dollars in U.S. currency; two Delaware paper plates; one key chain, one pill bottle, one mix audio amp, one regent DVD player, one pioneer DVD radio face, one gray car seat, one black umbrella, one gray case with assorted papers, two backpacks, eleven CDs and one X-Box 360 game case missing an enclosed game; and one Queens South Borough Crime PBA card.

Arrest Photo

§ 87(2)(b)'s arrest photo (encl. 11) shows that the white of his left eye is red. There were no other observable signs any injury.

Disposition of Relevant Arrest

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Notice of Claim Inquiry

As of July 30, 2008, § 87(2)(b) has not filed a notice of claim with the Office of the Comptroller regarding the incident (encl. 51).

Officer CCRB History

Sgt. Digennaro has been a member of the service for fourteen years (encl. 5a – 5c). In CCRB case number 200406800, a vehicle stop, threat of arrest and refusal to provide name and shield number allegation were substantiated against him. Subsequent to a departmental trial, the charges were dismissed. In CCRB case number 200616823 a discourtesy allegation was substantiated against Sgt. Digennaro and instructions were imposed.

PO Hinteman has been a member of the service for six years, PO Rome and PO Ragoo have been members of the service for three years, and PO Lewis has been a member of the service for four years. They have had no CCRB allegations substantiated against them (encl. 5d – 5g).

Conclusions and Recommendations

Officer Identification

Statements and documentary evidence confirmed the involvement of Sgt. Digennaro, PO Rome, PO Ragoo, PO Hinteman and PO Lewis on the day of the incident. § 87(2)(b) alleged that a white male officer seated in the rear seat of an unmarked police vehicle used a chokehold against him. PO Rome and PO Ragoo were both seated in the rear of their assigned unmarked police vehicle. PO Ragoo is an Asian male of dark complexion while PO Rome is a white male. § 87(2)(g)

§ 87(2)(b) alleged that a black male uniformed officer who was about 5'8" tall and of slim build strip-searched him and performed a cavity-search on him at § 87(2)(b) PO Jolan Lewis, who matches this physical description, admitted to transporting § 87(2)(b) to § 87(2)(b) with PO Vincent Caputo, a white male. § 87(2)(g)

Undisputed Facts

It is undisputed that § 87(2)(b) was illegally parked inside a parking lot on public housing property. It is undisputed that Sgt. Digennaro forcibly stopped § 87(2)(b). It is undisputed that Sgt. Digennaro, PO Rome, PO Hinteman and PO Ragoo engaged in a physical struggle with § 87(2)(b). It is undisputed that PO Ragoo pepper sprayed § 87(2)(b). It is undisputed that § 87(2)(b) was transported to § 87(2)(b) from the scene of his arrest.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(g)

According to § 87(2)(b) Sgt. Digennaro exited the police vehicle and instructed him to place his hands behind his back. When § 87(2)(b) refused to do so without knowing the reasons for which he was being arrested, the officers engaged him in a physical struggle.

§ 87(2)(g)

§ 87(2)(b) also asserted that the officers refused to provide their names and shield numbers to § 87(2)(b) upon request, claimed that one of the officers referred to him as a 'smart-ass,' asserted that an officer in a white shirt hit § 87(2)(b) in the face after he was handcuffed and also alleged that one of the officers pointed his firearm at § 87(2)(b). None of these statements were corroborated by § 87(2)(b).

§ 87(2)(b) or by § 87(2)(b) § 87(2)(g)

According to Sgt. Digennaro, he and his partners exited their police vehicle when § 87(2)(b) closed Sgt. Digennaro's door, thus preventing him from exiting his vehicle. Sgt. Digennaro and his partners then immediately engaged in a physical struggle with § 87(2)(b) PO Rome, PO Ragoo and PO Hinteman corroborated Sgt. Digennaro's testimony. Sgt. Digennaro stated that when § 87(2)(b) prevented him from exiting his police vehicle, it became his intention to arrest him for obstructing governmental administration. This charge was based on the fact that § 87(2)(b) had prevented Sgt. Digennaro from exiting his vehicle, thus preventing him from initiating an investigation into the ownership of § 87(2)(b)'s vehicle.

§ 87(2)(b) was charged with § 87(2)(b), among other charges, as a result of the incident. § 87(2)(b) asserted that the officers exited their vehicle, surrounded him and physically engaged him in a struggle without provocation. He also stated that the officers' shields were covered with black tape and obscured by their outermost garments. § 87(2)(g)

It is undisputed that Sgt. Digennaro, PO Rome, PO Hinteman and PO Ragoo engaged in a physical struggle with § 87(2)(b). According to § 87(2)(b) he never resisted, never fought back and never struck any of the officers during this struggle. § 87(2)(g)

A line of duty injury report prepared by Sgt. Digennaro (encl. 23) noted that § 87(2)(b) struck him with a closed fist about his body while violently resisting arrest and also bent his right arm behind his back, resulting in pain and injury. An arrest report (encl. 16a – 16c) and complaint report (encl. 17a – 17b) prepared by PO Rome noted that § 87(2)(b) had struck PO Rome on his face and body. In a criminal court complaint (encl. 18a – 18c) and two AIDED reports (encl. 19a – 19g; encl. 20), PO Rome also reported that § 87(2)(b) punched Sgt. Digennaro in the shoulder and twisted his arm behind his back, resulting in a torn rotator-cuff. PO Rome also noted that § 87(2)(b) swung his fists and kicked his feet at PO Rome and his partners and that both Sgt. Digennaro and PO Hinteman were removed to the hospital as a result of the incident. PO Hinteman prepared a line of duty injury report (encl. 29) in which he reported that he was kicked in the right shin and injured his right shoulder while falling to the ground when attempting to overcome assault by a perpetrator.

§ 87(2)(g)

§ 87(2)(g) § 87(2)(b) asserted that PO Rome placed his hand around his neck, thus restricting his breathing, before he was brought to the ground. § 87(2)(b) could only describe the officer who choked him as a white male who was seated in the rear of the police vehicle. § 87(2)(g)

While § 87(2)(b) stated that an officer placed his hand around § 87(2)(b)'s neck, he stated that this took place after § 87(2)(b) was brought to the ground. § 87(2)(g)

According to § 87(2)(b) and § 87(2)(b)'s testimony, the officers immediately grasped § 87(2)(b)'s arms upon exiting the police vehicle. § 87(2)(g)
§ 87(2)(b) PO Rome, Sgt. Digennaro, PO Hinteman and PO Ragoo affirmed that none of the officers placed their hands against § 87(2)(b)'s neck. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) alleged that, during the struggle with the officers, he was punched and kicked repeatedly in the face, kidneys, privates and sides with their closed fists. § 87(2)(g)
§ 87(2)(b) During his interview with Internal Affairs (encl. 7a – 7h), § 87(2)(b) § 87(2)(b) stated that he was first thrown against a police vehicle and punched and kicked repeatedly before being thrown to the ground and punched and kicked repeatedly. During his interview with the CCRB (encl. 10a – 10f), § 87(2)(b) did not mention being thrown against a police vehicle, but rather asserted that he was immediately thrown onto the ground.

Following the incident, § 87(2)(b) was transported to § 87(2)(b) where he claimed he received treatment for a swollen eye, lacerations to each side of both wrists, lacerations on his head and face, and bruising along his body. The investigation was unable to obtain § 87(2)(b)'s medical records from § 87(2)(b) and thus unable to verify the extent of § 87(2)(b)'s injuries. The investigation was unable to do so, however, because § 87(2)(b) refused to sign an authorization form during his interview with the CCRB (encl. 10a – 10f). § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) was photographed following his interview with Internal Affairs (encl. 7e – 7h). These photographs show that the white of § 87(2)(b)'s left eye was red and also show that he had minor abrasions on the bridge of his nose, on the left side of his lower cheek and behind his right ear on the back of his head. These were also the only injuries documented in a medical treatment of prisoner form (encl. 43) and a pre-arraignment screening form (encl. 44a – 44b). While § 87(2)(b) alleged that the injury in his left eye was caused when an officer kicked him in the face, he only cited this as the cause of his injury during his interview with Internal Affairs (encl. 7a – 7h) and did not mention the cause of his injury during his interview with the CCRB (encl. 10a – 10h).

§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

PO Rome and PO Ragoo did admit to punching § 87(2)(b) with closed fists and PO Ragoo admitted to kicking § 87(2)(b) during the struggle. PO Rome stated that he punched § 87(2)(b) on one occasions, on an unknown part of his body, after § 87(2)(b) punched him on the top of his head. PO Ragoo also stated that he punched § 87(2)(b) on an unknown part of his body after § 87(2)(b) repeatedly kned him in the chest and after § 87(2)(b) threw repeated punches towards his partners.

Sgt. Digennaro, PO Rome, PO Hinteman and PO Ragoo also concur that, as a result of the struggle, they fell to the ground. They each stated that § 87(2)(b)'s physical stature, and the way in which he was resisting against them, prevented them from quickly securing him in handcuffs. Their testimony was consistent with the arrest report (encl. 16a – 16c), complaint report (encl. 17a – 17b) and criminal court complaint (encl. 18a – 18c) prepared by PO Rome. § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b) alleged that, at § 87(2)(b) PO Lewis removed his clothing and examined each article, including his wallet. § 87(2)(g)

§ 87(2)(b) alleged that, after his clothing was removed, PO Lewis put on a pair of plastic gloves, stood on his right side and instructed him to turn on his side such that his buttocks were displayed before inserted what felt like two fingers into § 87(2)(b)'s rectum. PO Lewis denied removing § 87(2)(b)'s clothes and denied strip-searching or cavity-searching § 87(2)(b) which PO Caputo corroborated. PO Lewis explained a police officer would never perform a cavity-search on an arrestee and asserted that he never came into physical contact with § 87(2)(b) while at the hospital.

According to PO Lewis, whose testimony was corroborated by PO Caputo, medical personnel removed § 87(2)(b)'s clothing and assisted him into a hospital robe after a nurse flushed out one of his eyes. PO Lewis placed § 87(2)(b)'s clothes in a bag, which he then placed underneath the hospital bed. PO Lewis acknowledged that he took § 87(2)(b)'s ID, but explained that he did so only to fill out § 87(2)(b)'s medical paperwork. PO Lewis stated that he never examined, felt or looked through § 87(2)(b)'s clothing. PO Lewis did not see any medical personnel conduct a cavity-search of § 87(2)(b) and stated also that there was no reason for such a search to be conducted.

§ 87(2)(g)

Sgt. Digennaro, PO Rome and PO Hinteman stated that § 87(2)(b) was not strip-searched or cavity-searched at the hospital and further explained that there was no reason for which § 87(2)(b) should have been strip-searched following his arrest. PO Lewis stated that he did not know the circumstances surrounding his arrest and did not know whether it was a concern that § 87(2)(b) had any contraband on his person when transported to the hospital. PO Lewis and PO Caputo were not involved in § 87(2)(b)'s arrest and were only instructed to transport him to the hospital after responding to the scene of his arrest in response to a call for assistance. There were no notations in the command log (encl. 47) that documented a strip search of § 87(2)(b)

§ 87(2)(g)

Allegations Not Pleaded

While § 87(2)(b) asked the officers why their shields were allegedly obscured, he did not specifically ask any of the officers for their names or shield numbers. § 87(2)(g)

Allegation A. At 40-20 Beach Channel Drive, Sgt. Joseph Digennaro stopped § 87(2)(b)

An individual is seized within the meaning of the Fourth Amendment when his freedom of movement is constrained in such a way that a reasonable person would not feel free to leave. According to *Terry v. Ohio*, a police officer may execute a forcible stop of a particular individual when “he reasonably suspects that such person is committing, has committed or is about to commit” a crime (encl. 1). In order to meet the

standard of constitutionality, reasonable suspicion must be predicated upon those specific and articulable facts which led to the stop.

§ 87(2)(g) Sgt. Digennaro forcibly stopped § 87(2)(b) after § 87(2)(b) closed the door of his police vehicle, thus preventing him from exiting and conducting an investigation into the ownership of § 87(2)(b)'s vehicle. It then became Sgt. Digennaro's intention to arrest § 87(2)(b) for obstructing governmental administration. According to §195.05 of Criminal Procedural Law, "a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or...prevents a public servant from performing an official function, by means of intimidation, physical force or interference" (encl. 2a – 2c).

§ 87(2)(g)

Allegation B. At 40-20 Beach Channel Drive, PO Douglas Rome used a chokehold against § 87(2)(b)

§ 87(2)(g)

Allegation C. At 40-20 Beach Channel Drive, Sgt. Jason Digennaro used physical force against § 87(2)(b)

Allegation D. At 40-20 Beach Channel Drive, PO Timothy Hinteman used physical force against § 87(2)(b)

Allegation E. At 40-20 Beach Channel Drive, PO Douglas Rome used physical force against § 87(2)(b)

Allegation F. At 40-20 Beach Channel Drive, PO Jason Ragoo used physical force against § 87(2)(b)

Allegation G. At 40-20 Beach Channel Drive, PO Jason Ragoo pepper-sprayed § 87(2)(b)

§ 87(2)(g) Sgt. Digennaro, PO Hinteman, PO Rome and PO Ragoo engaged § 87(2)(b) in a physical struggle when he actively resisted their efforts to secure him in handcuffs. As part of that struggle, PO Rome and PO Ragoo each admitted to punching § 87(2)(b) with a closed fist on one occasion and PO Ragoo admitted to kicking § 87(2)(b). According to Patrol Guide Procedure 203-11, a police officer is authorized to use "only that amount of force necessary to overcome resistance" (encl. 3) in order to effect an arrest.

To address situations requiring force exceeding that used to restrain a subject in handcuffs, the Police Academy Curricula has articulated an escalating scale of force which outlines the appropriate kinds of force which may be used to meet the concurrent degree of resistance. According to this model, an officer is permitted to counter physical assault likely to cause physical injury with impact techniques, including the use of batons, fists or feet (encl. 4a – 4b). Additionally, §35.30 of Criminal Procedure Law notes that an officer "may use physical force when and to the extent he reasonably believes such to be necessary to...defend himself or a third party person from what he reasonably believes to be the use of imminent use of physical force (encl. 2a – 2c).

PO Rome and PO Ragoo explained that they employed impact techniques against § 87(2)(b) after he repeatedly struck them with a closed fist and, in the case of PO Ragoo, when § 87(2)(b) kned him repeatedly in the chest. As was clearly documented in § 87(2)(b)'s arrest report (encl. 16a – 16c), complaint report (encl. 17a – 17b) and criminal court complaint (encl. 18a – 18c), in addition to AIDED reports prepared by PO Rome (encl. 19a – 19g; encl. 20), § 87(2)(b) actively resisted his arrest by kicking and punching the officers, leading Sgt. Digennaro and PO Hinteman to sustain injuries which required medical treatment.

§ 87(2)(g)

§ 87(2)(g)

It is also undisputed that, during the struggle, PO Ragoo pepper-sprayed § 87(2)(b). According to the Police Academy Curricula regarding the use of force, pepper spray “can be used when physical force is required to protect the officers or others from assault, or to restrain or subdue a suspect...who cannot be taken into custody by lesser means” (encl. 4a – 4b). PO Ragoo explained that he pepper-sprayed § 87(2)(b) because the officers were unable to secure him through strength alone, because he refused to comply with instructions, and because he had already struck several of PO Ragoo’s partners.

§ 87(2)(g)

Allegation H. At § 87(2)(b) PO Jolan Lewis strip-searched § 87(2)(b)
Allegation I. At § 87(2)(b) PO Jolan Lewis performed a cavity search on § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: